G. R. S. IX—5]

66-23

Previous referen...

923.

File No. 66-23

Pris 67-23(1-3)

Serial Nos. 1-2

Later references

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Two

Part B for May 1924

SUBJECT

Question of the calculation of the period of sent raised on receipt no 3052 Chanda of the jail

No P. 6527 dt 28-5-24 To me Regd Pris

States that the period of sen has to be calculated from the date of the first order commu the sentence of death into transportation for li

GENERAL AND REVENUE SECRETARIAT.

(Pris)

NOTES.

File No. 66-23

FILE HEADING.

question of the exact calculation of the period of sentence passed on convict No. 304 Chowda of the Dist Jail

Hon D.J. of Broach

No. 520/65-24 Dated 8-4-24 Received 10-4-24

No. 467	Enclos. 5	Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

writing for orders regarding the date of calculation commencement of the sentence in the case of convict No. 304 Chowda of the Dist Jail for reasons stated therein.

NOTES AND ORDERS.

Subs Orders. Rule 221 of the Bombay Jail Manual seems to support the view of the Superintendent Dist. Jail, which appears to be the correct one. No doubt it is equitable to calculate the sentence from 21-8-15 the date of the original order, but—

General and Revenue Secretariat.

Pros. File No. 65 of 1923

Serial No.

according to the latter part of rule it should not be calculated from date of the order of [illegible] commuting sentences of death [illegible] there appears to be no distinction drawn between Royal prerogative and an order of the appellate Court in the Jail Manual as explained by the D.G. The words "the date of order of the Chief Court or Government in the last but 2nd line of rule 221, appear to indicate that H.H.'s orders in the exercise of his royal prerogative have been included in the word — "or Govt."

Recd 12.4.24

Put up

There was a similar case, wherein the question of the date from which remissions commence, when sentence was enhanced, discussed & matter practically finally put up.

Aug 15th

Recd

Pros file 147-23 Sh. I-G. put up as desired

Recd 28/4/24

Put up

Norton's and [illegible] Khan put up a copy of Jail Manual at once

28/4

Recd

Copy of Jail manual put up

29/4

General and Revenue Secretariat.

File No. 66 of 19 V.

Serial No.

In accordance with the 2nd Sentence in Rule 221 it seems that the period has to be Calculated from the date of the first order Commuting the Sentence of death into transportation for life and the view of the Superintendent seems to the correct view. The Govt. should be informed accordingly.

1 & 2 Secy)

1/5

5/6/15

1st Member

2 Appr

8-a

5/8

21/5

Secy 21/5

Draft Read — Issue

Secy 26/5

22/5/15

2 To the Govt of Madras

No. 652 dt 28/5/15

Madras Govt - the period has to be Calculated from the date of the Govt order Commuting the Sentence of death into transportation for

4467

No. 520 / 65-24 Office of the Inspector-General of Prisons in Mysore,

Dated Bangalore, 8/10 April 1924.

From

Dr. H.B. Mylvaganam, F.R.C.S., (Eng).,
Inspector-General of Prisons
in Mysore, Bangalore.

To

B. Nagappa Esqr., Bar-at-law.,
Secretary to the Government of H.H. the Maharaja
of Mysore, Local and Legislative Departments, Bangalore.

Sir,

I have the honour to state that Convict No.304, Chowd of the Central Jail, whose nominal roll is enclosed, was - sentenced in the first instance, to transportation for life on 21-8-15, in Shimoga Sessions Case No. 6 of 1915-16. This sentence was, on revision, altered by the Chief Court into one of death on 10-11-15. Again, on an appeal to His Highness, th death sentence passed by the Chief Court was commuted on 5-2-1(to one of transportation for life.

The question now is, whether the commuted sentence of transportation passed by His Highness, must be reckoned to have taken effect from its date viz., 5-2-16 or from the date of original sentence, 21-8-15. Since the order of His Highness cancelled the death sentence passed by the Chief Court and virtually restored the original sentence of transportation and since the convict had actually begun to undergo the same on 21-8-15, it would seem just to reckon the sentence from the date of the original sentence.

But the Superintendent's view is different as stated in his letter No. 426/F. 33 dated 14-3-1924 (copy enclosed) whi(

would

would seem to be, strictly speaking, the correct view.- According to him, the original sentence became extinct when the Chief Court passed the death sentence. So that, the case went up to His Highness as an appeal against the death sentence which was commuted into one of transportation for life. Hence the latter portion of Rule 221 of Mysore Jail Manual would apply to the case and the transportation would be reckoned from the date of the order of Government viz., 5-2-

The fact that the order of His Highness was passed in exerci of the Royal prerogative, as distinguished from an order of a second appellate court and that it merely commutes the death sentence to one of transportation and does not expressly quash the same and restore first sentence of transportation would seem to lend support to the Superintendent's view. On the other hand, although the order of His ness does not expressly restore the first sentence of transportation t virtually amounts to a restoration of the latter and the convict as been actually undergoing his sentence from the date of the first entence viz., 21-8-15 and it would seem equitable to reckon the sent rom 21-8-15.

As the question is, thus, not free from doubt, I submit he same for the orders of Government. Copies of the warrants and of he orders of the appellate authorities are also enclosed for ready eference.

I have the honour to be,

Sir,

Your most obedient servant,

H.B. Mythergunas

Inspector-General of Prisons.

Letter No.426/F. 33 dated 14th March 1924 from the Superintendent, Central Jail, Bangalore, to the Inspector-General of Prisons in Mysore, Bangalore.

-@-@-@-@-@-@-@-

In forwarding the enclosed nominal roll, I have the honour to bring to your notice that Convict No.304 Chowda mentioned therein was at first received here with a sentence of transportation for life passed on him on 21-8-1915 in Shimoga Sessions Case No. 6 of 191 16. This sentence was however on revision by Chief Court altered on 10-11-1915 to one of death which agai was on a memorial submitted to H.H. the Maharaja of Mysore, commuted under a Government Order dated 5/2/16 to one of transportation for life. It strikes me tha the sentence of the prisoner in question should have been calculated from 5-2-1916 instead of 21-8-1915 as has been done. I request your permission to revise th entries in the concerned books of this Jail, if you agree with me.

-@-@-@-@ @ @ @@--

" C O P Y "

- J. Nanda

Inspector-General of Prisons
8th April 1924

No. 37]

Nominal Roll of Male* Convict No.† 304 'C' Name Chowda Residence Sragovve

(Village, Taluk and District) Sagar Taluk Shimoga District

Caste Vakkaliga Tamil Present age 29 Years Occupation agriculture

Section and Code under which imprisoned	Original sentence and date of award	Adjudicating Court and number of Calender case in which convicted	Unexpired term of sentence after deducting remission earned up to 11-3-16 and up to December 1926			Present state of health and fitness to undertake a journey‡	Result of appeal (if any)	Conduct in Jail	Remarks
			Y.	M.	D.				
302 I.P.C.	Transportation for life from 28.8.1915	Sessions Court Shimoga in Shimoga Sessions Case no 6 of 15-16	5	4	28 ~~22~~		Sentence of transportation for life on appeal reduced to 10 of 15-16 by Sessions Court Shimoga		

* Strike out and add, "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a casual or habitual, respectively, and after the latter, add the number of previous convictions, thus No. 37.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical officer.

Note.—For personal and descriptive marks——see reverse.

B. C. Jail.

14-3-1926

Reverse

Personal and descriptive marks.

(To be given in respect of escaped prisoners only with reference to Rules 501-2, Jail Manual.)

Superintendent.

IN THE COURT OF THE Sessions, Shimoga Division.

To Officer in charge of the
Central Jail at Bangalore.

Shimoga C.C.No. 6 of 15-16.

Whereas Chowda son of Chowda resident of Urgod Sagar Taluk has been convicted before B.S. Krishnaswami Iyengar, Esq., B.A.B.L., Sessions Judge, Shimoga Division of the offence of Murder

under section 302 of the Indian Penal code, and has this day been sentenced to Transportation for life

You are hereby required to receive the said Chowda into your custody in the said Central Jail at Bangalore together with this warrant and carry the aforesaid sentence in to execution according to law.

Given under my hand and the seal of the court on this 21st day of August ~~192x~~ 1915.

Sd/-B.S.Krishnaswami Iyengar,
Sessions Judge, Shimoga Dvn.

xxxxxxxxxxxx
"Copy"
Superintendent,
Central Jail, Bangalore.

2272/420 dated 27-2-1916.

IN THE COURT OF THE Sessions, Shimoga Division.

The Officer in charge of the
Central Jail at Bangalore.

Shimoga S.C.No. 6 of 15-16
Criminal Revision case No. 10 of 15-16 on the file of
Chief Court.

Whereas Chowda son of Chowda resident of
Taluk who was
convicted before B.S. Krishnaswami Iyengar, Esq., B.A.B.L
Sessions Judge, Shimoga Division
of the offence of Murder

under section 302 of the Indian Penal code, and
was sentenced to transportation for life and whereas the
Chief Court in Criminal Revision case No. 10 of 15-16 sentenced him
to death, and whereas the said sentence of death has been commuted to
transportation for life on 5th February 1916 by His Highness the
Maraja of Mysore

You are hereby required the
to carry the aforesaid sentence of transportation for life
into execution accordingly.

Given under my hand and the seal of the court on this 26th day of
February 1916.

Sd/- B.S. Krishnaswami
Iyengar
Sessions Judge,
Shimoga Division.

"Copy"

Superintendent,
Central Jail, Bangalore.

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Criminal Revision Case No. 10 of 1915-16.

Upon a review of the proceedings held on the trial of Chowda (accused) sentenced by the Sessions Judge, Shimoga on the 21st day of August 1915 to suffer transportation for life under section 302 of the Indian Penal Code.

It is ordered that the conviction be affirmed, but that sentence of transportation for life passed by the said Sessions Judge, Shimoga under section 302 of the Indian Penal Code be altered to one of de

And it is further ordered that the said Sessions Judge, Shimoga do recall his first warrant, and in lieu thereof issue a fresh warrant in accordance with this sentence.

And that a copy of this order be sent to the officer in charge of the Central Jail at Bangalore for the information of the said Chowda(accused)

Given under my hand and the seal of the Court this 10th day of November 1915.

Sd/- N.T. Gopalienga
Registrar.

xxxxxxxxx

120

In the matter of a Memorial of Chowda praying for the commutation of the sentence of death passed on him by the Chief Court in Crimi Revision Case No. 10 of 1915-16.

HIS HIGHNESS THE MAHARAJA has been pleased to direct that the sentence of death passed on the memorialist be commuted to one of transportation for life.

Sd/- H.V. Nanjundayya,
For Dewan.

Date of order
5th February 1916.

Chief Court of Mysore,
Bangalore Dated 22nd February 1916.

Copy forwarded to the Superintendent, Central Jail Bangalo for information and communication to the prisoner Chowda.

Sd/- N.T. Goppaiengar,
Registrar.

xxxxxxxxx
"Copy"
Chacha
Superintendent,

G. R. S. VI—G/32]

SUBJECT.....

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Diary No. of letter replied to 1446/

Section Ri

File No. 46-23.

Serial No. 2

General and Revenue Secretariat

( )

, the *191* .

No. 1652

Date of issue 28/5/24

Signed by W. C. A. G.

To Rec. Dy Secretary

Sir, With reference to your Memo No: 5-20/65-24 Dated 8.4.24 of the question of the calculation of the period of sentence passed on convict No. 3014 Chowdia of the Dt. Jail I am directed to state that ~~[illegible]~~ the period to be calculated from the date of the order commuting the sentence of death into transportation for

Release in accordance with the
terms sentence of rule 221 of
the Jail manual, and that the
discharge be sent to the Jail

Thanks

Cap Lieutenant
26/5 & Adjutant

Lieut - SGB
22/5/24